

that, unless well acquainted with her history, a stranger might not know she was feeble minded.

I could find no provision in the criminal code for punishing any of the men. The age limit having been passed, her not being a person of chaste character, her consent and her intelligence, the persons implicated in this disgraceful offence being strangers to her, taken in connection with the statutory exemptions in such cases, securely closed every avenue to a successful prosecution. Under these circumstances I betook myself to the common law and found there provisions as to conspiracy to defile women. Proceedings were commenced against all three men for this common law offence. Dr. Bruce Smith, after examination, pronounced this girl as a high grade imbecile, possessed of such ability as would protect a stranger from conviction for having connection with her though an imbecile.

At the trial the three men were defended by one of the cleverest criminal lawyers at our Bar. All three were convicted of the common law offence.

The young fellows, having been unable to find bail, had spent six months in gaol awaiting trial. The livery-stable keeper was glad to pay a fine of one thousand dollars and costs of the prosecution. Prosecutions upon procuring girls for prostitution could, under the common law, secure punishment more adequate for the offence than can be imposed under the code.

At the Whitby Assizes in September last before Sir William Mulock, an Austrian was convicted of using seditious language against the King, tending to promote a breach of the peace. I could find no means of convicting him under the code, but, by resorting to the common law, was able to do so. He served a term of imprisonment and is now interned.

If, however, the practitioner wishes to prosecute any person for gaming, and the statutes do not cover the case, it is hopeless to refer to the common law. The English people prior to Henry VIII. were dead game sports. Gaming was so common in the mother country in its early history that there is no record to be